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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

GREEN, BRIAN

ART UNIT PAPER NUMBER

3611

DATE MAILED: 08/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/943,483

Applicant(s)

WU, HENRY

Examiner

Brian K. Green

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-21, 32 and 33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-21, 32, and 33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claims 7-21,32, and 33 are objected to because of the following informalities: In claim 7, line 10, "first edge" should be "the first edge of the main body" to make it clear that the applicant is referring to the first edge of the body and not the first edge of the back rest portion. In claim 7, lines 24-25, "the first and second edge" should apparently be "the first and second edges of the back rest portion" to make it clear which first and second edges the applicant is referring to, i.e. back rest portion or the main body. In claim 15, line 8, "portion" should be "portion". In claim 15, lines 10 and 12, "the main body" should apparently be "the back rest portion". In claim 33, line 1, "The apparatus" should apparently be "The folding chair". In claim 33, line 2, "the upper edge of the main body" should apparently be "an upper edge of the main body" since there is no antecedent basis for "the upper edge of the main body". In claim 33, line 3, "the lower edge of the main body" should apparently be "a lower edge of the main body" since there is no antecedent basis for "the lower edge of the main body". Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-13,15-21,32, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henry (U.S. Patent No. 1,355,669) in view of Neal (U.S. Patent No. 5,779,317).

Henry shows in figures 1-3 a seat fastening device for a chair comprising a seat portion (4), a main body (the bottom plate of seat 2, see figure 2), a padded portion (the top surface and center cushion portion of seat 2) covering the main body, a first retainer (1, the retainer on the right side of figure 2) attached to a first edge (the first edge is considered to be the edge farthest to the right in figure 2) and a second retainer (1, the retainer on the left side in figure 2) attached to a second edge (the second edge is considered to be the edge farthest to the left in figure 2) for attaching the main body to the seat portion. The first and second retainers are considered to be "attached" to the respective first and second edges of the main body since the retainers are secured to the main body and hence are therefore "attached" to the first and second edges through the plate portion of the main body. The first edge of the main body is considered to be the edge toward the right in figure 2 engaged by the portion 3 of the retainer 1. The second edge of the main body is considered to be the edge toward the left in figure 2 engaged by the portion 3 of the retainer 1. Henry does not disclose whether the chair is a folding chair, using the fastening device to removably attach a padded back to the back rest portion, and attaching a message to the padding. Neal shows in figure 1-9 the idea of removably attaching a padded portion (11) to a seat portion (3) and a padded portion (30) to a back rest portion (8), placing a message on the padded portion (picture of flowers or other message) and making the chair in the form of a folding chair, see column 1, lines 4-6. In view of the teachings of Neal it would have been obvious to one in the art to modify Henry by making the chair in the form of a folding chair since this would allow the chair to be stored and transported in an easier and more convenient manner.

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In view of the teachings of Neal it would have been obvious to one in the art to modify Henry by removably attaching a padded back to the back rest portion since this would allow the padded back to be attached to and removed from the back rest in an easier and faster manner and would allow the decorative back to be changed as desired as taught by Neal, column 4, lines 2-13. In view of the teachings of Neal it would have been obvious to one in the art to modify Henry by attaching a message to the padded portion since this would create a more aesthetically pleasing display. In regard to claim 8, it would have been an obvious manner of design choice to make the retainers from plastic since the applicant fails to define any advantage to making the retainers from plastic and the metal retainers taught by Henry would work equally well. In regard to claim 9, it would have been an obvious manner of design choice to make the main body from plastic since the applicant fails to define any advantage to making the main body from plastic and the main body (wood or metal) taught by Henry would work equally well. It is considered within one skilled in the art to make the main body any thickness as desired. Henry shows in figures 2 and 3 that the retainers include biased hooks (5,6). In regard to claim 12, the padded portion is considered to be contoured to the back rest portion of the chair. In regard to claim 13, Henry shows in figure 2 that the padded portion is attached to the main body by a plurality of fasteners. In regard to claim 15, the edges upon which the retainers (1) are attached are considered to be the upper and lower edges as broadly defined. In regard to claims 18 and 21, Henry does not disclose the use of a plurality of chairs. Neal discloses in column 1, lines 35-50 and column 4, lines 23-30 that a plurality of the folding chairs are manufactured. Further, it is conventional in the art that a plurality of folding chairs are used together, i.e. church halls, school auditoriums, birthday parties, weddings, etc. In view of the teachings of Neal it would have been

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obvious to one in the art to modify Henry by using a plurality of the folding chairs together since this would allow a large group of people to be provided with seating in a more convenient and less expensive manner. In regard to claim 18, the folding chairs “can be” stacked together. In regard to claims 32 and 33, the first edges of the backrest portion and the first edge of the main body of Henry are considered to be oriented towards the top of the backrest portion and the second edge of the backrest portion and the second edge of the main body of Henry are considered to be oriented towards the bottom of the backrest portion. For example, depending where the retainers are placed on the main body and back rest portion of the chair, the vertical or horizontal edges of the back rest portion, the first and second edges of both the backrest portion and the main body would be similar to the applicant’s arrangement when placed on the horizontal edges or when placed on the vertical edges the respective first and second edges would still include portions “oriented towards” the top and bottom of the backrest portion.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Henry (U.S. Patent No. 1,355,669) in view of Neal (U.S. Patent No. 5,779,317) as applied to claim 13 above and further in view of Frobose (U.S. Patent No. 4,566,735) or Lissner (U.S. Patent No. 4,747,011).

Henry discloses the idea of attaching the padding to the rear surface of the main body with fasteners but does not disclose whether the fasteners are in the form of staples. Frobose shows in figure 2 the use of staples (19) to secure padding to a main body. Lissner shows in figure 7 the use of staples (86) to secure padding to a main body. In view of the teachings of Frobose or Lissner it would have been obvious to one in the art to modify Henry by using staples

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to attach the padding since this would allow the padding to be attached to the main body in a faster, easier, and less expensive manner.

Claims 7-13,15-21,32, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fitzgerald (U.S. Patent No. 1,847,605) in view of Neal (U.S. Patent No. 5,779,317) and Taylor (U.S. Patent No. 4,884,353).

Fitzgerald shows in figures 10 and 12 a seat fastening device for a chair comprising a back rest portion (25), a main body (24), a first retainer (8) attached to a first edge and a second retainer (7) attached to a second edge for attaching the main body to the back rest portion. The first and second retainers are considered to be flexible since they are made out of sheet metal which is known to be flexible. Fitzgerald does not disclose whether the chair is a folding chair and attaching padding to the main body. Neal shows in figure 1-9 the idea of removably attaching a padded portion (11) to a seat portion (3) and a padded portion (30) to a back rest portion (8), placing a message on the padded portion (picture of flowers or other message) and making the chair in the form of a folding chair, see column 1, lines 4-6. Taylor shows in figures 1 and 3 a plastic main body (12) which includes padding (60,62) and a sign panel (14) with indicia thereon. In view of the teachings of Neal it would have been obvious to one in the art to modify Fitzgerald by making the chair in the form of a folding chair since this would allow the chair to be stored and transported in an easier and more convenient manner. In view of the teachings of Taylor it would have been obvious to one in the art to modify Fitzgerald by replacing the main body with the type taught by Taylor including padding (60,62) and a sign with indicia thereon since this would allow the message being displayed by the main body to be

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changed in an easier and faster manner. In regard to claim 8, it would have been an obvious manner of design choice to make the retainers from plastic since the applicant fails to define any advantage to making the retainers from plastic and the metal retainers taught by Fitzgerald would work equally well. In regard to claim 9, Taylor discloses the idea of making the main body from plastic and it is considered within one skilled in the art to make the main body any thickness as desired. In regard to claims 10 and 11, Fitzgerald shows in figures 2,3,5, and 7 that the retainers include biased hooks. In regard to claim 12, the padded sign is considered to be contoured to the back rest portion of the chair. In regard to claim 13, as broadly defined, the surface upon which the padding (60,62) is attached is considered to be the "rear surface". In regard to claim 15, the edges upon which the retainers (7,8) are attached are considered to be the upper and lower edges, see figure 12. In regard to claims 18 and 21, Fitzgerald does not disclose the use of a plurality of chairs. Neal discloses in column 1, lines 35-50 and column 4, lines 23-30 that a plurality of the folding chairs are manufactured. Further, it is conventional in the art that a plurality of folding chairs are used together, i.e. church halls, school auditoriums, birthday parties, weddings, etc. In view of the teachings of Neal it would have been obvious to one in the art to modify Fitzgerald by using a plurality of the folding chairs together since this would allow a large group of people to be provided with seating in a more convenient and less expensive manner. In regard to claim 18, the folding chairs "can be" stacked together. In regard to claims 32 and 33, the first edge of the backrest portion and the first edge of the main body of Fitzgerald are considered to be oriented towards the top of the backrest portion and the second edge of the backrest portion and the second edge of the main body of Fitzgerald are considered to be oriented towards the bottom of the backrest portion, see figure 12.

Response to Arguments

The applicant argues that the cited references do not teach a padded sock that can be positioned over a backrest portion in the manner defined in claim 7. The examiner disagrees since claim 7 is still broad enough that Henry in view of Neal reads on claim 7 as described by the examiner in the 103 rejection above and Fitzgerald in view of Neal and Taylor also reads on claim 7 as described by the examiner in the 103 rejection above.

The applicant argues that Fitzgerald fails to show first and second retainers formed of a flexible material that allows the user to urge the at least first and second retainers into and out of engagement with the first and second edges as defined in claim 7. The examiner disagrees since the first and second retainers of Fitzgerald are considered to be flexible since they are made out of sheet metal which is known to be flexible, see page 1, lines 72-80.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian K. Green whose telephone number is (703) 308-1011. The examiner can normally be reached on M-F 7am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (703) 308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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BRIAN K. GREEN
PRIMARY EXAMINER

Bkg
Aug. 20, 2004